



RESPONSE TO APPLICANT SUBMISSION ON DRAFT CONDITIONS (2012SYE057)

**DEVELOPMENT APPLICATION 90/2012
MIXED USE BUILDING
1 - 5 LITTLE STREET, LANE COVE**

**PREPARED BY CITY PLAN SERVICES
ON BEHALF OF LANE COVE COUNCIL**

NOVEMBER 2012

INTRODUCTION

The assessment report for Development Application 90/2012 provided to the Joint Regional Planning Panel was prepared by City Plan Services (CPS) on behalf of Lane Cove Council. CPS has now received a copy of a submission to the Panel, dated 8 November 2012, from the General Manager of Lane Cove Council (as applicant) regarding the draft conditions of consent proposed for that application.

CPS has reviewed that submission and provides the following advice for consideration by the Panel. In preparing this submission, CPS has taken the opportunity to generally review the recommended conditions of consent, and not just the matters raised by the applicant.

REVIEW OF CONDITIONS

Schedule 1 - Deferred Commencement conditions

Condition	Response
A(i)	<p>This condition is not addressed by the applicant. However upon review, CPS considers that this matter can be addressed by an operational condition worded as follows:</p> <p><i>"The Little Lane pedestrian entry to the residential lobby/ public lobby shall be provided with an architectural treatment/design element, to the satisfaction of the PCA, sufficient to increase its visual prominence within the building facade, particularly from the intersection with Little Street. Details are to be included on plans lodged with the Construction Certificate."</i></p>
A(ii)	<p>This condition is not addressed by the applicant. However upon review, CPS considers that this matter can be addressed by an operational condition worded as follows:</p> <p><i>"Design measures comprising planter boxes and/or balustrading to the satisfaction of the PCA, shall be provided to residential balconies (Levels 3-8 on the west, south and east elevations) necessary to achieve appropriate wind criterion outcomes. The amended plans are to be supported by a report from a suitable qualified person confirming this outcome is achieved."</i></p>
A(iii)	<p>CPS considers the issue privacy is often a question of perception. The site is zoned commercial and is at the interface of a residential area.</p> <p>The retail windows directly align with balconies of adjoining units at Nos 7-9 Little Street, and the size/number of windows at this level of the southern elevation of the building will certainly contribute to a perception of overlooking of the adjoining building, regardless of floor levels and the intended landscape treatment. CPS remains satisfied this design amendment is appropriate for the retail windows.</p> <p>However upon review the community windows at the eastern elevation of the ground floor can remain as proposed, noting that the vegetation on Nos 7-9 provides sufficient screening. (and accepting that further landscaping on the subject site is proposed)</p>

	<p>Further, CPS considers that this matter can be addressed by an operational condition worded as follows:</p> <p><i>"External glazing to the ground floor retail floor area within the southern elevation of the building, opposite Nos. 7-9 Little Street, shall be amended to achieve a sill height a minimum of 1.5m above floor level. Details are to be included on the plans lodged with the Construction Certificate."</i></p>
A(iv)	<p>This condition evolved from the SEPP 65 assessment which indicated that all south facing balconies could be improved by providing measures such as screens/planters to further improve privacy relationships for the building to the south.</p> <p>However upon review CPS accepts the applicant's contentions in the submission and agrees that the proposed modifications to units 205, 305 and 306 is sufficient. Further, it is also considered that this matter can be addressed by an operational condition, worded as follows:</p> <p><i>"The following design amendments shall be include in the plans provided with the Construction Certificate:</i></p> <ul style="list-style-type: none"> <i>• A suitably landscaped planter box, 900mm high and 600mm wide shall be provided across the southern edge of the balcony to Unit 205</i> <i>• A 1.5m high privacy screen, of a design, materials and colours to compliment the building, shall be provided to the southern edge of the balconies of Units 305 and 306. The screen shall commence at the inside face of the planter box of both balconies, and extend up for a distance of 8.5m for Unit 305, and 4m for Unit 306."</i>
B	<p>We have now received the Certificate of Title referred to by the applicant. On the understanding that this is the final part of the road closure process, CPS has no objection to condition B of Schedule 1 being removed.</p>

Schedule 2 - Operational conditions

Condition	Response
1	No changes requested - however can it can be amended by removing (a) at the end of the table to remove reference to 'deferred commencement' conditions
2	No changes requested or required
3	No changes requested or required
4	<p>No objections are raised to the splitting condition 4 into two separate matters as indicated by the proponent.</p> <p>It is acknowledged that Council may chose to permit retail and commercial uses which generate demand for more than 50 spaces, but that the intent of the DCP was not to limit future retail usage. CPS therefore agrees with the proponents suggested wording.</p> <p>Regards the second matter - the intent of the condition was to ensure that the car park remains as public facility into the future. This outcome is achieved by the proponent's revised suggestion while allowing the flexibility they seek to manage the car park.</p>

	Therefore no objection is raised to the suggested rewording of this element of the condition as nominated by the applicant.
5	No changes requested
6	No changes requested
7	No changes requested
8	No changes requested
9	No changes requested
10	No changes requested
11	No changes requested
12	No changes requested
13	<p>In terms of the section 94 contributions the subject of conditions 13 and 14:</p> <ul style="list-style-type: none"> • There is no section 94 for the community floor space as the future uses would not be defined as commercial/retail under that plan • The DCP controls specifically require the supply of public parking in response to an identified shortfall • The site specific controls in the DCP (e.g. heights/FSR) were presumably included as a trade off to fund the public parking spaces <p>The car park could be considered a 'material public benefit' as it is not listed in the Works Schedule of the S94 Plan.</p> <p>The 'community facility' element of the building is 'works in kind' as the S94 Plan does list a multi-purpose community centre for the Lane Cove CBD.</p> <p>In terms of the process for considering the offer of a MPB or WIK, CPS is of the understanding that:</p> <ul style="list-style-type: none"> • An offer of a material public benefit under section 94(5) of the EPA Act cannot be considered <u>prior</u> to the determination of a development application • There is no statutory procedure to guide the evaluation of such an offer. It must therefore be considered on 'merit' and Council therefore could decide <u>not</u> to accept such an offer. • The construction costs of the car park and community facilities elements represent a significant cost. However CPS was not provided with any QS report to support the applicant's stated costing of \$6,772,500 for these parts of the building. <p><u>Draft Development Contributions Guideline 2009 (exhibited until January 2010)</u></p> <ul style="list-style-type: none"> • States that any offer of an MPB should be by way of a planning agreement. CPS is not aware of any planning agreement. • Any offer of a WIK must be made in writing, preferably following consultation with Council. CPS has not received any advice that this offer of WIK has been subject of any negotiation between Council and the applicant.

14	As for 13 above
15	No objection to revised wording for this condition as nominated by the applicant
16	No changes requested
17	No changes requested
18	No changes requested
19	No changes requested
20	No changes requested
21	No changes requested
22	No changes requested
23	No changes requested
24	No changes requested
25	No changes requested
26	No changes requested
27	No changes requested
28	No changes requested
29	No changes requested
30	No changes requested
31(a)	No objection to revised wording for this condition as nominated by the applicant
32	No changes requested
33	No changes requested
34	No changes requested
35	No changes requested
36	No changes requested
37	No changes requested
38	No changes requested
39	<p>CPS has no objection to the intent of the amendment, and suggest the condition be revised to instead read:</p> <p><i>“There must be no stockpiling of topsoil, sand, aggregate, spoil or any other construction material or building rubbish on any nature strip, footpath, road or public open space park or reserve outside the works authorised by this consent.”</i></p>
40	No changes requested
41	No changes requested
42	No changes requested

43	<p>CPS has no objection to the intent of the amendment, and suggest the condition be revised to instead read:</p> <p><i>“A 1.8 m high chain mesh fence shall be erected within the footpath a radial distance of not less than 2m from the trunk of the street tree identified as Tree 38. The tree protection area shall not be used for storage or advertising and soil levels within the tree protection area shall remain undisturbed.”</i></p>
44	No changes requested
45	No changes requested
46	<p>CPS has no objection to the intent of the amendment, and suggest the condition be revised to instead read:</p> <p><i>“All existing trees in the neighbouring property shall be protected for the duration of the development works. A 1.8 m high chain mesh fence shall be erected inside the site and adjacent to the south boundary line. The setback distance of the fence starting from the east side boundary line is 2 metres for the first 15 m distance heading west and then reduced to 700mm for another 10m to go past the Casuarina tree. Alternatively a separate section of fencing with a setback distance of 700mm from the fence directly adjacent to the Casuarina could be erected to protect the tree’s root system. The tree protection area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and soil levels within the tree protection area shall remain undisturbed.”</i></p>
47	No changes requested
48	The proposed amendments to this condition are NOT supported.
49	No changes requested
50	No changes requested
51	<p>CPS supports the amendment of the condition to nominate the required pot size, and suggest the condition be revised to instead read:</p> <p><i>“The proposed Lemon-scented gums to be installed in pot sizes of 75 to 100 litres and in accordance with the approved DA Landscaping Plans in Appendix 29.”</i></p>
52	No changes requested
53	No changes requested
54	No changes requested
55	No changes requested
56	No changes requested
57	No changes requested
58	No changes requested
59	No changes requested
60	No changes requested
61	No changes requested

62	No changes requested
63	No changes requested
64	No changes requested
65	No changes requested
66	No changes requested
67	No changes requested
68	No changes requested
69	No changes requested
70	No changes requested
71	<p>CPS has no objection to the intent of the amendment, and suggests the condition be revised to instead read:</p> <p><i>The reuse and recycling of waste materials must be maximised during construction and demolition.</i></p> <p><i>Minimum separation required is into 1) masonry products (bricks, concrete/ concrete roof tiles) to be sent for crushing/recycling and 2) mixed waste (paper, plastic etc) for landfill.</i></p> <p><i>This can be achieved by constructing a minimum of two trade waste compounds on-site. Each waste compound must be adequately sized to enclose the waste. Alternatively, mixed waste may be stored in an adequately sized waste compound and sent to a waste contractor/waste facility that will sort the waste on their site for recycling.</i></p> <p><i>Trade waste compounds shall be constructed with sediment fencing, shade cloth, wood or metal sheets firmly staked into the ground (a trade waste bin is also suitable). The location and size of the waste storage areas must also be shown on the site plan.</i></p> <p><i>Submission of a Waste Management Plan detailing the types and approximate quantities of weekly waste produced on site, whether it is liquid, solid or gas; and the collection and disposal agreements for all recyclable materials including paper, cardboard, metal, oil, aluminium, P.E.T. and glass. The Waste Management Plan shall also address the disposal of all waste material, spoil and excavated material. The Waste Management Plan shall be submitted PRIOR TO THE PCA ISSUE OF THE CONSTRUCTION CERTIFICATE."</i></p>
72	No changes requested
73	<p>CPS does not support the deletion of this condition, but would have no objection to it being amended to instead read:</p> <p><i>"The access to the public car park shall comply with Australian Standards. AS 2890.1-2004 excepting 3.2.1"</i></p>
74	No changes requested
75	As for condition 48, the proposed amendments to this condition are NOT supported.
76	No changes requested

77	No changes requested
78	No changes requested
79	No changes requested
80	Agreed. This was unintentionally included in the draft conditions and should be deleted.
81	CPS would have no objection to this condition being deleted
82	No changes requested
83	No changes requested
84	No changes requested
85	No changes requested
86	No changes requested
87	No changes requested
88	No changes requested
89	No changes requested
90	No changes requested
91	No changes requested
92	No changes requested
93	No changes requested
94	No changes requested
95	No changes requested
96	No changes requested
97	No changes requested
98	No changes requested
99	CPS would have no objection to this condition being amended to instead read: <i>“Temporary safety fencing shall be provided around work sites required to complete the project in accordance with the approved construction management plan.”</i>
100	No changes requested
101	No changes requested
102	No changes requested
103	No changes requested
104	No changes requested
105	No changes requested
106	No changes requested

107	No changes requested
108	No changes requested
109	No changes requested
110	No changes requested
111	No changes requested
113	No changes requested
114	No changes requested
115	No changes requested
116	<p>CPS has no objection to the intent of the amendment, and suggests the condition be revised to instead read:</p> <p><i>“(V4) Car Parking Certification: The plans and supporting calculations of the internal driveway, turning areas, ramps, garage opening widths, parking space dimensions and any associated vehicular manoeuvring facilities shall be submitted to the Principal Certifying Authority.</i></p> <p><i>The plans shall be prepared and certified by a suitably qualified engineer. The design is to be certified that it fully complies with AS 2890 Series and/or Council's standards and specifications. The design and certification shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.”</i></p>
117	No changes requested
118	No changes requested
110	No changes requested
120	No changes requested
121	No changes requested
123	No changes requested
124	No changes requested
125	No changes requested
126	No changes requested
127	No changes requested
128	No changes requested